

SAO91 (Rev. 12/03) Criminal Complaint

United States District Court
Southern District of Texas
FILED

UNITED STATES DISTRICT COURT

APR 24 2006

SOUTHERN

DISTRICT OF

TEXAS

HOUSTON DIVISION

Michael N. Milby
Clerk of CourtUNITED STATES OF AMERICA
V.

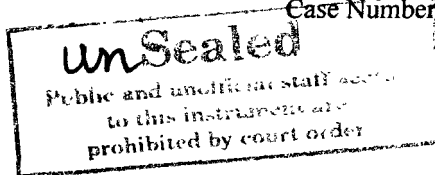
CRIMINAL COMPLAINT

Edilberto PORTILLO, a.k.a. "BETO"

Case Number:

H-06-287M

(Name and Address of Defendant)



W

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about November 2, 2005 in Harris County, in the Southern District of Texas defendant(s) did,

(Track Statutory Language of Offense)

knowingly and intentionally, combine, conspire, and agree with each other and others, to possess with intent to distribute a controlled substance. The overall scope of the conspiracy involves five (5) kilograms or more of a mixture or substance containing a detectable amount of Cocaine, a Schedule II Controlled Substance,

in violation of Title 21 United States Code, Section(s) 841 (a)(1), 841 (b)(1)(A)(ii), and 846.

I further state that I am a(n) DEA Special Agent and that this complaint is based on the following facts:

Official Title

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part of this complaint: ☒ Yes ☐ No

Signature of Complainant

Special Agent Roy Brashier

Printed Name of Complainant

Sworn to before me and signed in my presence, and I find probable cause.

April 24, 2006

Date

at

Houston,

City

Texas

State

Calvin Botley

Name of Judge

United States Magistrate Judge

Title of Judge

Signature of Judge

AFFIDAVIT IN SUPPORT OF COMPLAINT

Roy Brashier, being duly sworn, deposes and states:

I am a Special Agent for the United States Drug Enforcement Administration (DEA), currently assigned to the Houston Division Office, Houston, Texas. I have been employed by the DEA for approximately three (3) years. As a Special Agent, I am empowered by Title 21, United States Code, Section 878 to make arrests and obtain search warrants.

In connection with my official duties, I investigate criminal and civil violations of the Controlled Substances Act. I have received special training in the enforcement of laws concerning controlled substances as found in Title 21, United States Code. In connection with my official duties and responsibilities as a Federal Law Enforcement Officer, I have experience in the debriefing of defendants, witnesses, confidential sources, and other persons who have knowledge of the manufacturing, distribution, and transportation of controlled substances and of the laundering and concealing of proceeds from drug trafficking. In connection with my official duties and responsibilities, I have testified in drug investigations and have participated in the execution of numerous arrest and search warrants.

I submit this affidavit in support of my belief that probable cause exists to believe that Edilberto PORTILLO, a.k.a. BETO; Ernesto CURENO, a.k.a. CHILANGO; and Donald HARTWIG, a.k.a. GRANDFATHER are members of the Houston-based PORTILLO drug trafficking and money laundering organization.

On November 2, 2005, DEA Houston Special Agents established surveillance of CARNAVAL NIGHTCLUB at 8150 Southwest Freeway, Houston, Texas. CARNAVAL NIGHTCLUB is owned by Edilberto PORTILLO. At approximately 11:36 a.m., agents observed a white Lincoln Town Car, bearing Missouri license plate 226XSR¹, drive through the rear alley of CARNAVAL NIGHTCLUB, circle the entire building, and return to the rear alley where he parked near the rear entrance to the CARNAVAL NIGHTCLUB. Agents determined the driver of the vehicle was Donald HARTWIG. Your Affiant was aware that HARTWIG was previously arrested on June 30, 2005, for Possession with Intent to Distribute approximately 64 kilograms of cocaine near Tampa, Florida, and was believed to be a transporter of cocaine for the PORTILLO drug trafficking organization. At approximately 11:54 a.m., agents observed Edilberto PORTILLO arrive driving a silver Lincoln pickup bearing Texas license plate 07NWV2² and park near the rear entrance to CARNAVAL NIGHTCLUB. Agents observed PORTILLO and HARTWIG enter the rear nonpublic entrance to the CARNAVAL NIGHTCLUB together. At approximately 12:08 p.m., agents observed PORTILLO and

¹ According to the Missouri Department of Motor Vehicles records, 226XSR is a 2005 Lincoln Town Car registered to PV Holding Corp, Saint Louis, MO. Agents later determined the vehicle was an AVIS rental car.

² According to the Texas Department of Motor Vehicle records, 07NWV2 is a 2006 Lincoln Mark LT registered to Edilberto PORTILLO, 2311 Colby Lodge, Katy, Texas.

HARTWIG exit the rear door of CARNAVAL NIGHTCLUB and depart the location in their respective vehicles. Agents followed HARTWIG, and at approximately 1:24 p.m., HARTWIG arrived at his residence at 14200 Hooper Road, Houston, Texas. Surveillance was later terminated on HARTWIG.

Early the next morning and throughout the day on November 3, 2005, DEA Houston agents attempted to locate HARTWIG and the white Lincoln Town car without success. Agents determined that the white Lincoln Town Car bearing Missouri license plate 226XSR which HARTWIG had been driving the previous day was in fact an Avis rental car rented near the Galleria Mall, Houston, Texas. Agents learned from an Avis representative that the person who rented the vehicle, Ernesto CURENO, an employee of CARNAVAL NIGHTCLUB, inquired about a one-way rental from Houston, Texas, to Atlanta, Georgia, but Avis did not allow one-way rentals. DEA agents, having reason to believe the white Lincoln Town car may be utilized to transport a shipment of narcotics to Atlanta, Georgia, and that HARTWIG had already departed Houston en-route to Atlanta, contacted Georgia State Police and provided information regarding the description of the Lincoln Town car and HARTWIG's previous delivery of cocaine in Florida. DEA agents communicated to the Georgia State Police that it should be on the lookout for the vehicle as it may contain illegal drugs.

On November 4, 2005, at approximately 1:40 p.m. EST, Georgia State Trooper J.R. Traylor stopped the white Lincoln Town car bearing Missouri license plate 226XSR for a traffic violation while northbound on Interstate 85. Trooper Traylor identified the driver of the Lincoln as Donald HARTWIG. Trooper Traylor noticed that HARTWIG was not listed on the rental agreement provided to him by HARTWIG. Trooper Traylor contacted Avis and advised them of the situation. The Avis representative requested that the vehicle be seized and towed since the listed authorized drivers on the contract for the vehicle were not present within the vehicle. The Avis representative advised the trooper this voided the contract.

Due to the discrepancy in the rental agreement Trooper Traylor approached HARTWIG and advised HARTWIG that the vehicle would be seized and returned to Avis. Trooper Traylor asked HARTWIG about the four large bags he observed in plain view in the back seat of the Lincoln. HARTWIG stated he owned the small pull-behind bag and the hang-up clothes. HARTWIG related that the other bags belonged to Frank RODRIGUEZ³, the additional driver listed on the rental agreement. According to Trooper Traylor, HARTWIG also stated there was nothing in the trunk. Trooper Traylor received verbal and written consent to search HARTWIG's bag from HARTWIG. HARTWIG limited his consent to the property he claimed. HARTWIG's bag was searched, but nothing illegal was found. Trooper Traylor made a second call to Avis to confirm that Avis

³ The Avis rental agreement listed Frank RODRIGUEZ, 208 Adair Avenue, Atlanta, Georgia, as an additional driver. The rental agreement showed a Georgia driver's license #063187853 and a date of birth of April 19, 1957 for RODRIGUEZ. It should be noted, according to DEA Houston TFA Greg Hasselburger, in March of 2002, RODRIGUEZ attempted to purchase fifty (50) kilograms of cocaine from a confidential source in Houston, Texas.

wanted the vehicle seized and towed. The Avis representative responded in the affirmative.

Trooper Traylor requested his dispatcher send a wrecker to his location. Trooper Traylor allowed HARTWIG to retrieve his property from within the vehicle. HARTWIG's property consisted of a Cingular cellular telephone (713-397-1000), a Nextel cellular telephone (985-215-8693), and glasses. Trooper Traylor began an inventory of the contents of the vehicle. Trooper Traylor opened one of the bags in the back seat of the Lincoln and discovered it to be filled with kilogram-sized packages, which later tested positive for the presence of cocaine. Trooper Traylor placed HARTWIG under arrest. Trooper Traylor continued to search and discovered the other bags in the back seat were filled with kilograms of cocaine as was the entire trunk area of the vehicle. Georgia State Police inventoried three-hundred eighty-eight (388) kilograms of cocaine. HARTWIG was charged with Trafficking in Cocaine and placed into the Troup County jail. HARTWIG was transferred from State of Georgia custody to the custody of the United States Marshals Service in February 2006, after he was indicted in a drug conspiracy stemming from the 64-kilogram cocaine seizure in Tampa, Florida, on June 30, 2005. HARTWIG was arraigned on February 8, 2006, and is currently being held without bond.

After his arrest on November 7, 2005, HARTWIG was interviewed by DEA Houston Group Supervisor Cam Strahm and Task Force Officer Greg Raider. During the interview, HARTWIG confirmed that he was in contact with PORTILLO during his trip to Atlanta, Georgia. HARTWIG stated that he talked to PORTILLO approximately one hour before he was stopped by the Georgia State Police. HARTWIG further stated that he had been in contact with PORTILLO four times on November 4, 2005. HARTWIG stated that upon being pulled over, he called PORTILLO to advise PORTILLO that he was getting a ticket and that he would not be at the show and to ask PORTILLO to notify his friends of the incident. HARTWIG indicated he did not mention to PORTILLO that he knew he would be arrested for transporting cocaine. Houston DEA agents verified through review of phone records that HARTWIG was in contact with a phone believed to be used by PORTILLO. HARTWIG further stated that on Wednesday night, unknown Mexican males came to 14200 Hooper Road to get the rental vehicle to load it, and that he knew, "In his heart" that it was loaded with cocaine.

According to Avis Rental Car Company, Ernesto CURENO was the individual who rented the vehicle.⁴ On November 10, 2005, S/As R. Scott Hicks and Patricia Trevino, and TFO Greg Raider went to the residence of CURENO to interview him regarding his knowledge of the vehicle rental and the cocaine seizure.⁵ The interview was conducted

⁴ There was an additional driver listed on the rental agreement, Frank RODRIGUEZ, 208 Adair Avenue, Atlanta, Georgia. The rental agreement showed a Georgia driver's license #063187853 and a date of birth of April 19, 1957 for RODRIGUEZ. It should be noted, according to DEA Houston TFA Greg Hasselburger, in March of 2002, RODRIGUEZ attempted to purchase fifty (50) kilograms of cocaine from a confidential source in Houston, Texas.

⁵ It should be noted, the address listed on the vehicle rental agreement showed CURENO's residence as apartment #508. The address on CURENO's Texas driver's license shows apartment #508. However, according to Southwestern Bell Telephone Company, the telephone number CURENO listed on the rental agreement is serviced at apartment #211. Agents first attempted apartment #211, where CURENO,

in both Spanish and English. CURENO initially told agents that he rented the vehicle for a friend, JOSE LNU, and did not know anything about the seizure. CURENO stated he did not have a contact telephone number for JOSE LNU, nor did he know where JOSE LNU resided. CURENO also told agents that he worked at CARNAVAL NIGHTCLUB doing maintenance. When CURENO was advised that agents did not believe his story, he became visibly nervous. CURENO indicated to agents that he preferred to speak in private.

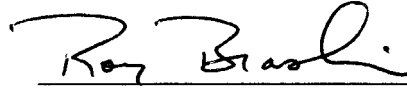
Thereafter, CURENO admitted to agents that he rented the vehicle for members of the PORTILLO drug organization. CURENO stated he was paid \$1,000.00 by members of the organization to rent the vehicle utilized by HARTWIG. CURENO stated to agents he could provide information regarding the organization's importation, transportation, and distribution of cocaine. CURENO stated that he feared cooperating as he felt in danger for his life because the organization is large-scale and violent.

CURENO advised agents that he would meet with them later in the afternoon to continue their conversation, and CURENO would provide agents with more information regarding the organization. Later that afternoon, S/A Hicks was contacted by an attorney for CURENO, and advised that CURENO did not wish to have further communications with law enforcement.

On April 12, 2006, Carlos Guillermo GOMEZ-DOMINGUEZ, a.k.a. Abel Aranda SALGADO, a.k.a. LINK, made post arrest statements to DEA Atlanta TFO Ronald D. Gooden. GOMEZ-DOMINGUEZ was previously arrested by FBI Atlanta for Conspiracy to Possess with Intent to Distribute cocaine. According to TFO Gooden, during the debriefing, GOMEZ-DOMINGUEZ stated he met and started buying cocaine from PORTILLO in early 2004. GOMEZ-DOMINGUEZ stated he purchased five (5) to eight (8) kilograms of cocaine per week from PORTILLO. GOMEZ-DOMINGUEZ stated he paid \$19,000 per kilogram. GOMEZ-DOMINGUEZ stated he purchased approximately 100 kilograms of cocaine from PORTILLO over the past two years. GOMEZ-DOMINGUEZ stated he was aware of the seizure of three-hundred eight-eight (388) kilograms of cocaine because he had discussed the seizure with PORTILLO. GOMEZ-DOMINGUEZ related PORTILLO had advised him that "Don" had been arrested with the three-hundred eighty-eight kilograms of cocaine and that "Don" was the same "old man" that had previously dropped off shipments of cocaine at GOMEZ-DOMINGUEZ' house. GOMEZ-DOMINGUEZ was aware that "Don" (HARTWIG) had previously been arrested in Tampa, Florida related to drug charges. GOMEZ-DOMINGUEZ stated the PORTILLO organization had, on three (3) to four (4) occasions, delivered eighty (80) to one-hundred (100) kilograms shipments of cocaine to his house. GOMEZ-DOMINGUEZ stated he was paid \$4,000 per shipment to assist the PORTILLO organization by allowing it to use his house as a place where the organization would break-down the drug quantities before the drugs were delivered to distributors. GOMEZ-DOMINGUEZ stated the shipment of cocaine would be broken down from large bundles in order to facilitate its distribution in the Atlanta, Georgia area.

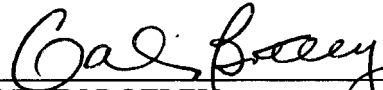
himself, answered the door.

Based upon the aforementioned information, it is your affiant's belief that Edilberto PORTILLO, a.k.a. BETO; Ernesto CURENO, a.k.a. CHILANGO; and Donald HARTWIG, a.k.a. GRANDFATHER are members of the Houston based PORTILLO drug trafficking and money laundering organization.



Roy Brashier
Special Agent
Drug Enforcement Administration

Sworn to before me and subscribed in my presence this 24th day of April 2006, and I hereby find probable cause.



CALVIN BOTLEY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF TEXAS